IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.MC.No. 2129 of 2007()

MC.59/2007 of FAMILY COURT, THIRUVALLA

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PETITIONER: COUNTER PETITIONER:

PHILIP THOMAS,
PALAMOOTTIL HOUSE, NELLIMALA P.O.,
ERAVIPEROOR, PATHANAMTHITTA.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: PETITIONERS:

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1. SHERRY SUSAN KOSHY,
PALAMOOTTIL HOUSE, NELLIMALA P.O., ERAVIPEROOR,
PATHANAMTHITTA.

2. SHEFIN SARA PHILIP, AGED 13 YEARS(MINOR)
REPRESENTED BY 1ST RESPONDENT, PALAMOOTTIL HOUSE,
NELLIMALA P.O., ERAVIPEROOR, PATHANAMTHITTA.

3. MICHELE SUSAN PHILIP, AGED 6 YEARS(MINOR
REPRESENTED BY 1ST RESPONDENT, PALAMOOTTIL HOUSE,
NELLIMALA P.O., ERAVIPEROOR, PATHANAMTHITTA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2129 of 2007

Dated this the 3rd day of July, 2007

O R D E R

The short grievance of the petitioner is that the impugned direction, to pay interim maintenance, is not a reasoned one and his contentions have not been considered by the learned Judge of the Family Court. By the impugned order, a direction has been issued by the learned Judge of the Family Court to the petitioner to pay maintenance @ Rs.1,000/- per mensem to his two children, aged 13 and 6 years respectively. Paternity is not disputed. According to the petitioner, he wants to raise various contentions. The learned Judge of the Family Court is obliged to consider such contentions. The impugned order reads as follows:

> "Both are present. CP is the father of the children. Counter petitioner to pay monthly Rs.2,000/- as interim maintenance for the children."

The requirements of a reasoned decision are not satisfied by the said direction extracted above.

2. While I agree with the learned counsel for the petitioner about the inadequacy of the order passed, I am not at all persuaded to interfere with the impugned direction. The petitioner is admittedly a Post graduate, who was employed as a college Lecturer, though, of

course, he contends that at the moment he is penniless and without any employment. Be that as it may, I am not at all persuaded to agree that the direction to pay Rs.2,000/- per mensem as interim maintenance to the two children is in any way incorrect or improper as to warrant interference by invoking the powers under Section 482 Cr.P.C. I am, in these circumstances, satisfied that a direction can be issued to the learned Judge of the Family Court to consider the rival contentions and pass appropriate order afresh regarding the claim for interim maintenance. But in the meantime, the impugned direction shall remain as an ad interim direction, which must be complied with by the petitioner till appropriate further reasoned order is passed by the learned Judge of the Family Court in the claim for interim maintenance.

3. Considering the nature of the direction, which I propose to issue, I am satisfied that it is not necessary to order notice to the respondents now.

4. In the result, this Crl.M.C is allowed in part. The following directions are issued:

i) The impugned direction to pay Rs.2,000/- (Rupees Two thousand only) per mensem as interim maintenance shall continue to remain as an ad interim direction until the claim for interim maintenance is considered afresh and appropriate orders passed by the Family Court;

ii) Such appropriate order shall be passed by the Judge of the Family Court after hearing both sides and adverting to the contentions and giving reasons within a period of 60 days from this date;

iii) The petitioner shall pay an amount of Rs.4,000/- (Rupees Four thousand only) towards the arrears of ad interim maintenance, within a period of 15 days from this date and shall continue to pay the ad interim maintenance before the 30th of all months hereafter (from July, 2007) until fresh orders are passed. If no such amount of maintenance is paid by the petitioner, the impugned order shall be confirmed straightaway as the direction for payment of interim maintenance.

(R.BASANT, JUDGE)

rtr/-